

Remarks

Claims 23, 24, and 158-249 are pending. Claims 23 and 24 are allowed. New claims 158-249 are added. Claims 1-22 and 25-99 were previously cancelled without prejudice. Claims 100-157 are hereby canceled without prejudice. The claims added by this amendment include nine independent claims and 92 total claims. The claims canceled by this amendment include 12 independent claims and 58 total claims. Therefore, there are three fewer independent claims, and 34 total claims in excess of the those canceled. A fee calculation sheet and fee for the 34 excess claims is submitted herewith. A Request for Continued Examination and fee is submitted herewith.

Support for “isolated polynucleotide” can be found at page 22, line 21 to page 23, line 4. Support for “substantially complementary” can be found at page 24, lines 1-20. Support for “anneals under conditions of high stringency” can be found at page 24, line 21 to page 25, line 18. Support for claims 158, 159 to 164, 173, 182 and 191 can be found at page 17, line 21 to page 18, line 24; page 82, line 10 to page 83, line 18; page 111, line 21 to page 115, line 16; and page 119, lines 11-26. Support for claims 165, 166, 174, 175, 183, 184, 192, 193, 207, 208, 219, 220, 231, 232, 238, 239, 245, and 246 can be found at page 26, line 18 to page 27, line 14. Support for claims 167, 176, 185, and 194 can be found at page 119, line 11 to page 124, line 2. Support for claims 168, 169, 177, 178, 186, 187, 195, 196, 200 to 206, 212 to 218 and 224 to 230 can be found at page 17, line 21 to page 18, line 34; and page 88, line 5 to page 107, line 19. Support for claims 170, 171, 179, 180, 188, 189, 197, 198, 209, 210, 221, 222, 233, 234, 240, 241, 247, and 248 can be found at page 48, lines 22-27; and page 107, line 21 to page 111, line 19. Support for claims 172, 181, 190, 199, 211, 233, 235, 242, and 249 can be found at page 48, line 27 to page 50, line 10; page 48, lines 22-27; and page 107, line 21 to page 111, line 19. Support for claims 236 and 237 can be found at page 17, line 21 to page 18, line 34. Support for claims 243 and 244 can be found at page 17, line 21 to page 18, line 34; and page 114, lines 4-27.

The Examiner issued a restriction requirement in the office action of October 30, 2000. The Examiner grouped claims for isolated polynucleotides having a portion that anneals to a human FEZI gene into Group I. In Applicants’ response of March 23, 2001, Applicants

provisionally elected Group I with traverse. The new claims added in this amendment are for isolated polynucleotides that are substantially complementary to FEZI genes or anneal under conditions of high stringency to FEZI genes, and for isolated cells that contain those isolated polynucleotides. Therefore, applicant respectfully submits that each of the new claims is within Group I.

Response to rejection of claims 118-121, 141-142 and 144 under 35 U.S.C. § 112, first paragraph, enablement.

The Examiner rejected the subject claims for claiming alleged non-enabled gene therapy technology. Although the Applicants do not agree with the Examiner's rejections, in an earnest effort to advance prosecution of the instant application, claims 118-121, 141-142 and 144 are hereby canceled. Therefore, the Examiner's rejection of the subject claims is moot.

Response to rejection of claims 100-157 under 35 U.S.C. § 112, first paragraph, written description – new matter.

The Examiner rejected the subject claims for reciting alleged new matter. Although the Applicants do not agree with the Examiner's rejections, in an earnest effort to advance prosecution of the instant application, claims 100-157 are hereby canceled. Therefore, the Examiner's rejection of the subject claims is moot.

Response to rejection of claims 146-157 under 35 U.S.C. § 112, first paragraph, written description.

The Examiner rejected claims 146-157 for claiming nucleic acids that encode portions of a peptide allegedly not adequately described in the specification. Although Applicants do not agree with the Examiner's rejections, in an earnest effort to advance prosecution of the instant application, claims 146-157 are hereby canceled. Therefore, the Examiner's rejection of the subject claims is moot.

Conclusion

Based on the foregoing, all claims are believed to be in condition for allowance. An early and favorable action toward that end is earnestly solicited.

Respectfully submitted,

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